IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31/03/2004

CORAM

THE HONOURABLE MR. JUSTICE P.K. MISRA

WRIT PETITION NO.32834 OF 2002 AND WRIT PETITION NO. 32845 OF 2002

1. A. Chinnaraju,
S/o. Arthanari

2. D. Sivakumar
S/o. Dhanaraj

3. D. Saravanan,
S/o. Dasan

4. K. Ganapathy,
S/o. Katturaja

5. M. Natesan,
S/o. Marimuthu

6. A. Kolandi,
S/o. Arunachalam

7. A. Jayakumar
S/o. Arjunan

8. R. Elango
S/o. Rajendran

9. T. Shanmugavadivel

10. M. Balasubramani,
S/o. Manikkam

11. L. Gomathi,

12. S. Ramesh,
S/o. K. Subramanian
13. K. Mohanmbal,
S/o. Krishnan

14. P. Ezhumalai,

15. P. Arumugam

S/o. Perumal

16. P. Rathinavel,
S/o. Ponnusami

17. N. Senthil,
S/o. Natesan

18. M. Sureshkumar

19. S. Vijayakumari,
W/o.N. Sampath Kumar

20. D. Priyadev,
S/o. Devanandam

21. K. Sasikumar,

22. R. Kathirvel,
S/o. Rangasami

23. M. Suresh,
S/o. Mariappan

24. P. Uma
D/o.A. Perumal

25. P. Soundarapandian .. Petitioners

-Vs-

1. Periyar University,
Rep. by its Registrar,
Government College of Engineering,
Salem 11. .. 1st Respondent in both WPs

2. The Labour Inspector Cum
Authority under Tamilnadu
Industrial Establishment
(Conferment of Permanent Status
to workmen) Act, 1981,
Salem. ..2nd Respondent in WP.32834/02

Petitions filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorarified Mandamus and Writ of Mandamus respectively as stated therein.

!For Petitioner : Mr.G. Purushothaman

For Respondents : Mr.S. Muthukumar for

Mr.V.R.Rajasekaran
Spl.G.P.

:J U D G M E N T

In W.P.No.32834 of 2002, the petitioners have prayed for quashing the proceedings of the second respondent dated 21.3.2002 rejecting the application of the petitioner for regularisation under Section 3 of the Tamil Nadu Industrial Establishment (conferment of Permanent Status to Workmen) Act, 1981. In W.P.No.32835 of 2002, the prayer is for issuing a writ of mandamus directing the respondent to reinstate the petitioners with continuity of service, backwages and all other benefits.

2. The petitioners claim that they were appointed on daily wages by the first respondent University in various posts and they were being paid on monthly basis. It is stated that the nature of posts are permanent, essential, continuous and perennial in nature and they were working continuously without any break in service from two to four years. Accordingly they claim that they should be conferred permanent status. It is further claimed that the first respondent by oral orders imposed artificial break in service with a view to deny opportunity to the petitioners from claiming permanent appointment. It is further stated that on the basis of such disengagement, the second respondent by order dated 21.3.2002, dismissed the Petition No.8509/2001 on the ground that the petitioners were already discharged from the service. On the aforesaid basis, two writ petitions have been filed.

3. In the counter affidavit filed on behalf of the respondents it is stated that the petitioners had been employed as casual workers for attending the work relating to examinations. The nature of work assigned to them are arranging question papers, answer papers, packing question and answer papers in bundles, labelling those bundles by filling up the required particulars for transmitting the same to the examination centres and loading the parcels in vans. It has been stated that the nature of work are casual and seasonal and the work attended by the petitioners was not permanent. The allegation that the petitioners were working continuously for 2 to 4 years had been denied. It is also stated that the petitioners had filed petition on 26.11.2001 before the Labour Inspector claiming right under Section 3 of the Tamil Nadu Industrial Establishment (conferment of Permanent Status to Workmen) Act, 1981. Subsequently, the petitioners filed W.P.No.3321 of 2002 seeking for a direction to the University to regularise the service of the petitioners and by order dated 16.4.2002, such writ petition was dismissed with liberty to workout their remedy available under law.

4. Keeping in view the stand taken in the writ petitions and the stand taken in the counter affidavit, it is apparent that the questions raised involve several disputed question of facts which can be more appropriately gone into by an appropriate forum and not in a writ jurisdiction under Article 226 of the Constitution. If the petitioners are aggrieved by the oral termination, it would be obviously open to them to approach the appropriate

forum. The reliefs claimed in the writ petitions cannot be granted and if the petitioners so desire, it would be open to them to approach the appropriate forum. However, it is observed that in case there is necessity in engaging persons in future in the same capacity by the University, such of the petitioners, who are willing to undertake such work, may be allowed to work as per the terms and conditions of the University.

5. Subject to the aforesaid observation, the writ petitions are disposed of. No costs.

Index : Yes
Internet: Yes

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To

1. Periyar University,
Rep. by its Registrar,
Government College of Engineering,
Salem 11.